

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)
)
)
v.)
)
SETH M. BOURGET and)
JOSEPH M. LAVORATO)
)
Defendants.)

Case No. 20-cr-10029-DJC

JOINT INITIERTIM STATUS REPORT

The United States, and the Defendants through their respective counsel, respectfully submit the following Status Report pursuant to Local Rules 116.5(a) for the Interim Status Conference scheduled for April 30, 2020 at 10:00 a.m. Based on the following, the parties submit that the Court should schedule a further status conference for June 15, 2020 and thereafter a final status conference in July 2020.

Overview of the Case

1. The indictment was returned on February 5, 2020 and charges defendant SETH M. BOURGET with two counts of Deprivation of Rights under Color of Law, in violation of 18 U.S.C. § 242. The indictment also charges defendant JOSEPH M. LAVORATO with one count of Obstruction of an Official Proceeding, in violation of 18 U.S.C. § 1512(c)(2) and one count of the Destruction, Alteration and Falsification of Records in a Federal Investigation, in violation of 18 U.S.C. § 1519.

2. The defendants made their initial appearance on the indictment on February 6, 2020 and were arraigned on the indictment on February 13, 2020. Both defendants are out of custody on conditions of pre-trial release.

Status of Automatic Discovery

3. The Government made an initial production of discovery including the required automatic discovery disclosures on February 28, 2020. Automatic discovery pursuant to LR 116.1(c)(1) is now complete. The initial production of discovery included more than 1,500 pages of documents and other records and included, among other items, the following: video recordings from handheld and stationary video surveillance at Ft. Devens; the investigative reports from the investigation; BOP policies and training materials regarding use of force; and medical records of the victim in this case. While the documentary evidence is not voluminous, the video surveillance collectively involves hours of recordings.

4. During the week of April 27, 2020, the Government will also be disclosing U.S. BOP emails of the defendants and potential witnesses, Bates Numbers 001551 through 189827.

5. There are no outstanding discovery requests.

Timing of Additional Discovery to be Produced

6. The Government does not anticipate producing any additional automatic discovery. Prior to the trial, the Government will make the appropriate and timely disclosures of Jencks material, expert disclosures and other relevant 21-day materials.

Timing of Additional Discovery Requests

7. The Defendants have received discovery and are still in the process of reviewing discovery. The Defendants propose a deadline for written discovery a week before the interim status hearing.

Protective Orders

8. The Court signed a Protective Order for the discovery produced in this case which was docketed on March 4, 2020.

Timing of Pre-Trial Motions

9. The parties submit that since the Defendants are still in the process of reviewing discovery that it is still too soon to determine whether any pre-trial motions will be necessary.

Timing of Expert Witness Disclosures

10. The parties submit that the Court should set a deadline for the disclosure of expert witness under Rule 16 as follows: 28 days before trial for the government and 14 days before trial for the Defendants.

Periods of Excludable Delay under the Speedy Trial Act

11. The parties submit that the following periods of time under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, should be excluded in the interests of justice:

- a. The period of time from the first initial appearance in this case on February 6, 2020, until the initial status conference on March 19, 2020, pursuant to LR 112.2(a)(1);
- b. On March 18, 2020, the Court entered an order excluding the time from March 19, 2020 until April 30, 2020; and
- c. The period of time from April 30, 2020, until the next interim status conference.

Timing for Further Status Conference

12. The parties submit that the court should set an interim status conference for either June 15, 2020 in the morning.

13. Undersigned counsel has shared a copy of this status report with counsel of records for the Defendants who join in the report.

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

By: /s/ Neil Gallagher
Neil J. Gallagher, Jr.
Assistant U.S. Attorney

Date Submitted: April 28, 2020

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Neil J. Gallagher, Jr.
Neil J. Gallagher, Jr.